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IN THE MATTER OF THE ONTARIO HUMAN RIGHTS CODE

AND

IN THE MATTER OF THE COMPLAINT OF MR. GURUFATHA  
KHALSA OF TORONTO, ONTARIO, ALLEGING DISCRIMINATION  
IN EMPLOYMENT BY ASSOCIATED TORONTO TAXI-CAB CO-  
OPERATIVE LIMITED (CO-OP CABS), 560 KING STREET WEST  
TORONTO, ONTARIO.

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DECISION

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MAY 16, 1980

E.J. RATUSHNY

BOARD OF INQUIRY



IN THE MATTER OF THE ONTARIO HUMAN RIGHTS CODE

AND

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KHALSA OF TORONTO, ONTARIO, ALLEGING DISCRIMINATION  
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OPERATIVE LIMITED (CO-OP CABS), 560 KING STREET WEST  
TORONTO, ONTARIO.

DECISION

On the 9th day of January, 1980, I was appointed a board of inquiry to inquire into the complaint made by Mr. Gurufatha Khalsa that he was discriminated against in employment because of his creed in contravention of section 4(1)(a) of the Ontario Human Rights Code.

The facts are not in dispute. Mr. Khalsa is a Sikh by religion and it is a central tenet of that faith that adherents not cut their hair or shave their beards. Upon applying for a position as a taxi driver with the respondent, Mr. Khalsa was informed that he could not be considered since it was the long-standing policy of the company not to hire men with beards or long hair. There is no suggestion of malice or intended discrimination on the basis of religion on the part of the respondent. The policy was considered to be beneficial for business reasons in the company's relation with the public.

After the complaint had been filed, the respondent sought legal advice and was informed that the discriminatory consequences of the policy to persons in Mr. Khalsa's position



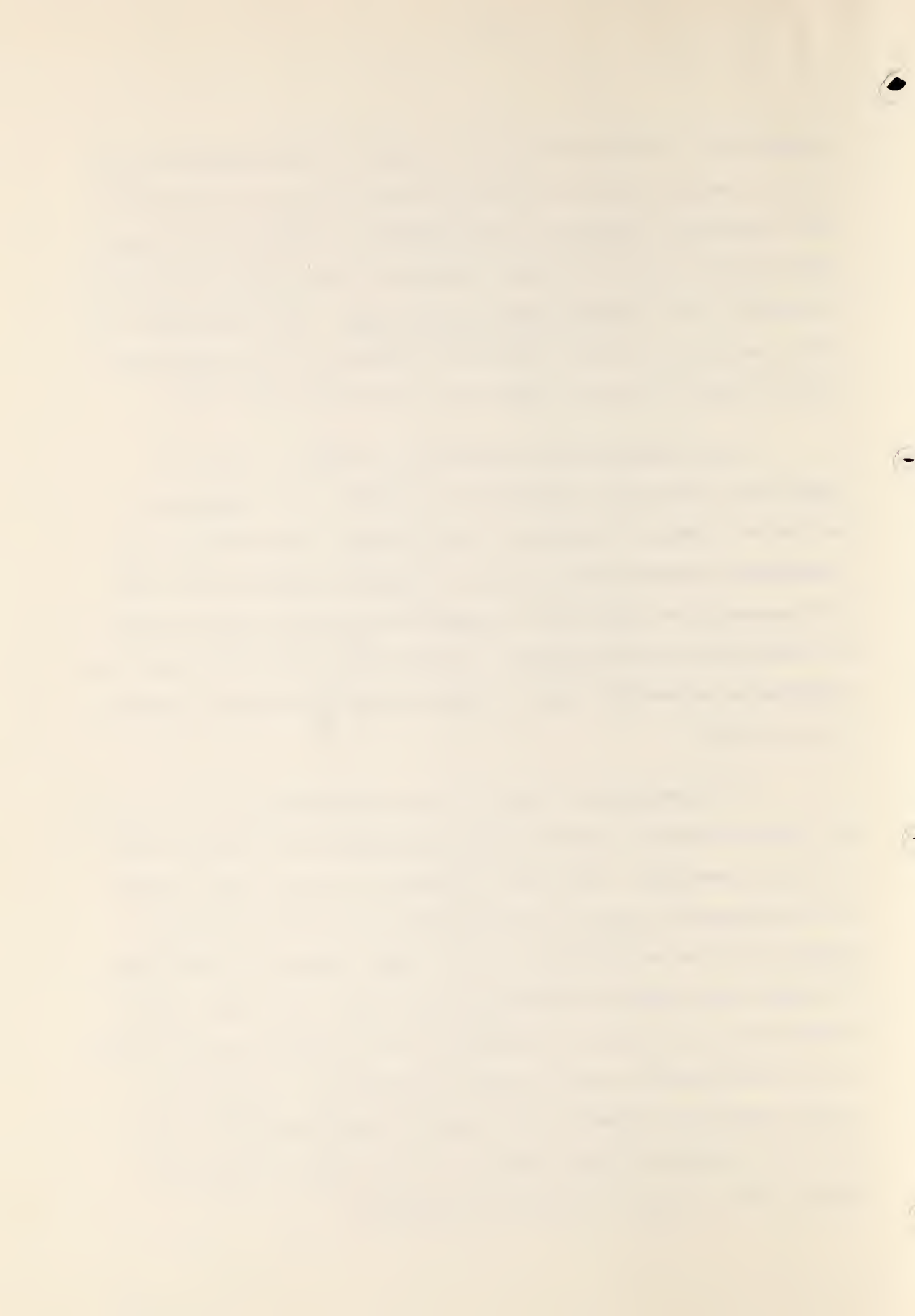
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constituted a contravention of the Code. The respondent took a conciliatory position and was prepared to settle the matter. The respondent indicated a willingness to display in a conspicuous place on its premises a notice of the company's intention to abide by the Ontario Human Rights Code. The respondent was also prepared to send a letter of apology to the complainants and the draft of such a letter was filed with the board.

The respondent was prepared to receive a renewed application from the complainant. However, the complainant no longer wishes to apply for the position. Counsel for the respondent argued that an award of monetary compensation was not appropriate since the respondent had acted without malice or intention to discriminate. Neither the complainant nor the Commission requested that an order of compensation be included in the order.

The complainant sought to be represented by his agent, Mr. Gurutej Khalsa and the board permitted him to participate in the proceedings. His basic objection was not with respect to the proposed terms of the settlement but with the basis upon which the contravention of the Code had been established. He asked this Board to decide not only that there was a contravention of the Code in relation to the complainant by virtue of his religion but also to hold that the term "creed" was broad enough to encompass any conscientious belief that the hair of a person's body should not be cut, even where that belief did not have a religious component.



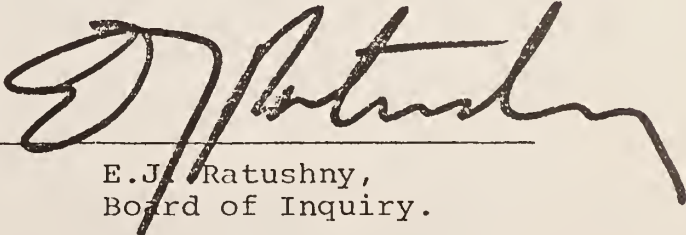
The Board ruled that it would be inappropriate to hear representations on that issue in this case since to do so would be beyond the mandate granted by the Board's Appointment with reference to the provisions of the Code.

I have therefore decided, pursuant to section 14 c.(a) of the Ontario Human Rights Code that the respondent has contravened that Act. In view of the position taken by the parties, I order that:

- (1) The respondent display in a conspicuous place on its premises, a notice of the company's resolve to abide by the Ontario Human Rights Code; and
- (2) The respondent send a letter of explanation and apology to the complainant and to the Commission;  
(The letter should be in the form of the draft letter which was discussed by the parties at the hearing and amended as a result).

I am grateful to counsel and to Mr. Gurutej Khalsa for the direct and lucid manner in which they expressed their respective positions.

Dated this 16th day of May, 1980.

  
E.J. Ratushny,  
Board of Inquiry.

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